



PATENT
Attorney Docket No. 05725.0927-00000

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re Application of:

Serge RESTLE et al.

Application No.: 09/890,805

Int'l Filing Date: August 3, 2001
§ 371 Date: August 30, 2001

For: DETERGENT COSMETIC
COMPOSITIONS AND USE

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) Group Art Unit: 1617
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Mail Stop Appeal Brief--Patents

Commissioner for Patents
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Sir:

APPEAL BRIEF UNDER 37 C.F.R. § 41.37

Further to the Notice of Appeal filed March 12, 2006, and pursuant to 37 C.F.R. § 41.37, Appellants present this brief and enclose herewith a check for the fee of \$500.00 required under 37 C.F.R. § 41.20(b)(2). The period for filing the Appeal Brief has been extended by the accompanying Petition and fee.

This appeal is in response to the final Office Action dated September 11, 2006 ("Final Office Action"), rejecting claims 24, 34-37, 49, 51, 74, and 75, which are set forth in the attached Claims Appendix.

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I. Real Party In Interest

L'Oréal S.A. is the assignee of record as indicated by the assignment recorded on August 30, 2001, at Reel 012218, Frame 0984.

II. Related Appeals and Interferences

Appellants, Appellants' undersigned legal representative, or L'Oréal S.A. know of no other appeals or interferences which will directly affect, be directly affected by or have a bearing on the Board's decision in the pending appeal.

III. Status Of Claims

Claims 24, 27-49 and 51-76 are pending. Claims 27-33, 38-48, 52-73, and 76 have been withdrawn from consideration. Claims 24, 34-37, 49, 51, 74 and 75 are finally rejected. See Final Office Action dated September 11, 2006.

Specifically, in the Final Office Action, pages 4-6, claims 24, 34-37, 49, 51, 74 and 75 have been rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,139,781 to Birtwistle et al. ("*Birtwistle*").

Claims 24, 34-37, 49, 51, 74, and 75 are under appeal.

IV. Status Of Amendments

The claims have not been amended in response to the final Office Action dated September 11, 2006. Therefore, for purpose of this appeal, claims 24, 34-37, 49, 51, 74 and 75 are pending and finally rejected.

V. Summary Of Claimed Subject Matter

The claims of the present invention recite a cosmetic composition with improved properties intended for cleaning and for conditioning keratinous substances, such as the hair, and comprising, in a cosmetically acceptable aqueous vehicle, at least one anionic surfactant, and at least one amphoteric surfactant and at least one specific carboxylic acid ester. Specification at 1, lines 1-10.

One embodiment of the present invention, as recited in **independent claim 24**, is directed to a detergent and conditioning cosmetic composition comprising (A) a cosmetically acceptable aqueous medium, (B) a washing base comprising at least one anionic surfactant and at least one amphoteric surfactant, (C) at least one water-insoluble carboxylic acid ester chose from

1)- monoesters derived from reacting saturated and unsaturated, linear and branched monocarboxylic acids with saturated and unsaturated, linear and branched monoalcohols,

2)- di- and triesters derived from reacting saturated and unsaturated, linear and branched di- and tricarboxylic acids with saturated and unsaturated, linear and branched monoalcohols,

3)- mono-, di- and triesters derived from reacting saturated and unsaturated, linear and branched di- and tricarboxylic acids with saturated and unsaturated, linear and branched dialcohols,

4)- monoesters derived from reacting saturated and unsaturated, linear and branched monocarboxylic acids with saturated and unsaturated, linear and branched C₃-C₄₉ dialcohols,

5)- di- and triesters derived from reacting saturated and unsaturated, linear and branched monocarboxylic acids with unsaturated dialcohols,

6)- di- and triesters derived from reacting saturated and unsaturated, linear and branched monocarboxylic acids with saturated dialcohols having more than 4 carbon atoms,

7)- mono- and diesters derived from reacting saturated and unsaturated, linear and branched monocarboxylic acids with saturated trialcohols,

8)- triesters derived from reacting saturated and unsaturated, linear and branched monocarboxylic acids with saturated trialcohols having more than 3 carbon atoms,

9)- mono-, di- and triesters derived from reacting saturated and unsaturated, linear and branched di- and tricarboxylic acids with saturated and unsaturated, linear and branched trialcohols,

the total number of carbon atoms of said ester not exceeding 27 if said ester is saturated and not exceeding 50 if said ester comprises at least one unsaturation,

the concentration of said ester in said composition ranging from 1.2 to 8% by weight with respect to the total weight of the composition,

the concentration of said washing base in said composition ranging from 6 to 35% by weight with respect to the total weight of the composition,

the composition being devoid of cationic surfactant, and

the anionic surfactant:amphoteric surfactant ratio by weight being less than or equal to 3:1. Specification at p. 4, line 24-p. 6, line 15.

Another embodiment of the present invention, as recited in **independent claim 49**, is directed to a detergent and conditioning cosmetic composition comprising (A) a cosmetically acceptable aqueous medium, (B) a washing base comprising at least one anionic surfactant and at least one amphoteric surfactant, (C) at least one water-insoluble carboxylic acid ester chosen from:

cetyl lactate, C₁₂-C₁₅ alkyl lactate, isostearyl lactate, lauryl lactate, linoleyl lactate, oleyl lactate, (iso)stearyl octanoate, isocetyl octanoate, octyl octanoate, cetyl octanoate, isodecyl octanoate, isononyl isononanoate, octyl isononanoate, 2-ethylhexyl isononate, octyl palmitate, octyl pelargonate, octyl stearate, octyldodecyl erucate, oleyl erucate, ethyl and isopropyl palmitates, 2-ethylhexyl palmitate, isopropyl myristate, butyl myristate, hexyl stearate, butyl stearate, isobutyl stearate, hexyl laurate and tridecyl erucate,

diethyl sebacate, diisopropyl sebacate, diisopropyl adipate, di(n-propyl) adipate, dioctyl adipate, dioctyl maleate, triisopropyl citrate, trioleyl citrate and dioctyl malate,

propylene glycol monostearate, tripropylene glycol monostearate, diethylene glycol monostearate and diethylene glycol monooleate,

glyceryl undecylenate, glyceryl monolaurate, glyceryl dilaurate, glyceryl monocaprate, glyceryl monocaprylate, glyceryl monooleate and glyceryl dioleate, glyceryl citrate and glyceryl monosuccinate,

the concentration of said ester in said composition ranging from 1.2 to 8% by weight with respect to the total weight of the composition, and

the concentration of said washing base in said composition ranging from 6 to 35% by weight with respect to the total weight of the composition. Specification at p. 4, line 24-p. 6, line 25; p. 12, line 22-p. 13, line 6; p. 13, lines 12-16; p. 14, lines 1-4; p. 14, lines 20-24; and p. 15, lines 17-18.

Another embodiment of the present invention, as recited in **independent claim 74**, is directed to a method cleaning and/or removing makeup from a keratinous substance comprising applying to said keratinous substance an effective amount of a composition comprising (A) a cosmetically acceptable aqueous medium, (B) a washing base comprising at least one anionic surfactant and at least one amphoteric surfactant, (C) at least one water-insoluble carboxylic acid ester chosen from

1)- monoesters derived from reacting saturated and unsaturated, linear and branched monocarboxylic acids with saturated and unsaturated, linear and branched monoalcohols,

2)- di- and triesters derived from reacting saturated and unsaturated, linear and branched di- and tricarboxylic acids with saturated and unsaturated, linear and branched monoalcohols,

3)- mono-, di- and triesters derived from reacting saturated and unsaturated, linear and branched di- and tricarboxylic acids with saturated and unsaturated, linear and branched dialcohols,

4)- monoesters derived from reacting saturated and unsaturated, linear and branched monocarboxylic acids with saturated and unsaturated, linear and branched C₃-C₄₉ dialcohols,

5)- di- and triesters derived from reacting saturated and unsaturated, linear and branched monocarboxylic acids with unsaturated dialcohols,

6)- di- and triesters derived from reacting saturated and unsaturated, linear and branched monocarboxylic acids with saturated dialcohols having more than 4 carbon atoms,

7)- mono- and diesters derived from reacting saturated and unsaturated, linear and branched monocarboxylic acids with saturated trialcohols,

8)- triesters derived from reacting saturated and unsaturated, linear and branched monocarboxylic acids with saturated trialcohols having more than 3 carbon atoms,

9)- mono-, di- and triesters derived from reacting saturated and unsaturated, linear and branched di- and tricarboxylic acids with saturated and unsaturated, linear and branched trialcohols,

the total number of carbon atoms of said ester not exceeding 27 if said ester is saturated and not exceeding 50 if said ester comprises at least one unsaturation,

the concentration of said ester in said composition ranging from 1.2 to 8% by weight with respect to the total weight of the composition,

the concentration of said washing base in said composition ranging from 6 to 35% by weight with respect to the total weight of the composition,

the composition being devoid of cationic surfactant, and

the anionic surfactant:amphoteric surfactant ratio by weight being less than or equal to 3:1. Specification at p. 4, line 24-p. 6, line 25 and p. 6 lines 20-24.

Another embodiment of the present invention, as recited in **independent claim 75**, is directed to a process for washing and for conditioning a keratinous substance comprising:

applying to a wetted said substance an effective amount of the composition comprising (A) a cosmetically acceptable aqueous medium, (B) a washing base comprising at least one anionic surfactant and at least one amphoteric surfactant, (C) at least one water-insoluble carboxylic acid ester chosen from

1)- monoesters derived from reacting saturated and unsaturated, linear and branched monocarboxylic acids with saturated and unsaturated, linear and branched monoalcohols,

2)- di- and triesters derived from reacting saturated and unsaturated, linear and branched di- and tricarboxylic acids with saturated and unsaturated, linear and branched monoalcohols,

3)- mono-, di- and triesters derived from reacting saturated and unsaturated, linear and branched di- and tricarboxylic acids with saturated and unsaturated, linear and branched dialcohols,

4)- monoesters derived from reacting saturated and unsaturated, linear and branched monocarboxylic acids with saturated and unsaturated, linear and branched C₃-C₄₉ dialcohols,

5)- di- and triesters derived from reacting saturated and unsaturated, linear and branched monocarboxylic acids with unsaturated dialcohols,

6)- di- and triesters derived from reacting saturated and unsaturated, linear and branched monocarboxylic acids with saturated dialcohols having more than 4 carbon atoms,

7)- mono- and diesters derived from reacting saturated and unsaturated, linear and branched monocarboxylic acids with saturated trialcohols,

8)- triesters derived from reacting saturated and unsaturated, linear and branched monocarboxylic acids with saturated trialcohols having more than 3 carbon atoms,

9)- mono-, di- and triesters derived from reacting saturated and unsaturated, linear and branched di- and tricarboxylic acids with saturated and unsaturated, linear and branched trialcohols,

the total number of carbon atoms of said ester not exceeding 27 if said ester is saturated and not exceeding 50 if said ester comprises at least one unsaturation,

the concentration of said ester in said composition ranging from 1.2 to 8% by weight with respect to the total weight of the composition,

the concentration of said washing base in said composition ranging from 6 to 35% by weight with respect to the total weight of the composition,

the composition being devoid of cationic surfactant, and

the anionic surfactant:amphoteric surfactant ratio by weight being less than or equal to 3:1,

optionally leaving said composition in said keratinous substances for a chosen time, and

rinsing with water. Specification at p. 4, line 24-p. 6, line 25 and p. 23, line 22-p. 24, line 16.

VI. Grounds of Rejection To Be Reviewed on Appeal

One ground of rejection is to be reviewed in this appeal:

(1) the rejection of claims 24, 34-37, 49, 51, 74 and 75 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,139,781 to Birtwistle et al. ("*Birtwistle*").

VII. Argument

Each claim of the present application is separately patentable, and upon issuance of a patent will be entitled to a separate presumption of validity under 35 U.S.C. § 282. The arguments set forth below are arranged under subheadings (A) (claims 24, 34-37, 49, 51, and 74) and B (claim 75), and in accordance with 37 C.F.R. § 41.37(c)(1)(vii), these subheadings indicate the claims whose patentability is argued separately.

The § 102(b) Rejection

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Further, a rejection under § 102 is proper only when the claimed subject matter is identically described or disclosed in the prior art. *In re Arkley*, 455 F.2d 586, 587, 172 USPQ 524, 526 (CCPA 1972). “The identical invention must be shown in as complete detail as is contained in the . . . claim.” *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

A. Claims 24, 34-37, 49, 51, and 74 Are Not Anticipated by *Birtwistle*

In the present case, the Examiner has failed to establish that each and every element recited in, for example, independent claims 24, 49, and 74 is either expressly or inherently described in *Birtwistle*. Specifically, *Birtwistle* does not expressly or inherently teach a product or a composition comprising, in relevant part, “at least one water-insoluble carboxylic acid ester...ranging **from 1.2 to 8% by weight** with respect

to the total weight of the composition ...” See e.g., claims 24, 49, and 74 (emphasis added.)

The Examiner alleges that *Birtwistle* teaches “compositions suitable for topical application to the skin or hair, which comprise 1-99% of a monoalkyl or monoalkenyl phosphate surfactant (anionic surfactant), 1-50% of a dialkyl or dialkenyl phosphate surfactant (anionic surfactant) and 1-50% of a co-surfactant chosen from alkylamidobetaines (amphoteric surfactant) or alkylamphoglycinates (amphoteric surfactant)” and “that additional emollients can be used in the compositions including glyceryl monolaurate, glyceryl monostearate, isopropyl myristate, isopropyl palmitate, butyl stearate, butyl myristate, lauryl lactate, isopropyl linolate, and others.” Final Office Action at 4 and 5 (citing *Birtwistle* at col. 2, lines 15-65 and col. 11, lines 5-30). Therefore, the Examiner concludes that *Birtwistle* anticipates the rejected claims. *Id.* at 4. Appellants respectfully disagree for at least the following reasons.

In order to anticipate the claimed invention, *Birtwistle* must clearly and unequivocally teach the claimed composition to one of ordinary skill in the art “without any need for picking, choosing and combining various disclosures.” *In re Arkley*, 455 F.2d at 587, 172 USPQ at 526. In the present case, *Birtwistle* discloses

[a] composition suitable for topical application to the skin or hair [comprising] a. a monoalkyl or monoalkenyl phosphate surfactant, b. a dialkyl or dialkenyl phosphate surfactant; and c. a co-surfactant chosen from alkylamidopropyl betaines and alkylamphoglycinates.

Birtwistle Abstract. *Birtwistle* discloses that those compositions can further comprise: 1) supplementary surfactants (starting at col. 5, line 25); 2) optional thickening agents (starting at col. 9, line 54); 3) preservatives (starting at col. 10, line 13); and 4) further

optional ingredients (starting at col. 10, line 50). Each of those four categories of additives includes a long list of possible components. For example starting at col. 5, line 25 and ending at col. 11, line 43, over one hundred components are listed for the "optional ingredients" alone.

Thus, in order for one of ordinary skill in the art to attempt to arrive at the invention recited in independent claims 24, 49, and 74, the skilled artisan would need to "pick and choose" from hundreds, if not thousands, of potential cosmetic compositions. Due to this large number of potential compositions, one of skill in the art would not "at once envisage" the presently claimed combination which includes (A) a cosmetically acceptable aqueous medium, (B) a washing base comprising at least one anionic surfactant and at least one amphoteric surfactant, and (C) at least one water-insoluble carboxylic acid ester. See M.P.E.P. § 2132.

To be sure, courts have found that a genus may anticipate a species when, for example, the possible combinations are "sufficiently limited or well delineated," and one of skill in the art would be able to "at once envisage" the claimed invention. *Ex parte A*, 17 USPQ2d 1716 (Bd. Pat. App. & Inter. 1990); *In re Petering*, 301 F.2d 676, 133 USPQ 275 (CCPA 1962); see also M.P.E.P. § 2132. The present facts, however, can be distinguished from those cases.

As discussed above, the components that may be present in *Birtwistle's* cosmetic compositions are not "sufficiently limited or well delineated." In fact, even those components that the Examiner points to as falling within the recited "at least one water-insoluble carboxylic acid ester" claim element are among a list of 58 possible emollients. Final Office Action at 5 (citing col. 11, 5-30). For a disclosed genus to anticipate a

claimed species that falls within that genus, anticipation can only be found if one of ordinary skill is able to “at once envisage” that species. M.P.E.P. § 2131.02. Due to the large number of possible emollients, one of ordinary skill in the art could not “at once envisage” selecting an emollient within the scope of the recited “at least one water-insoluble carboxylic acid ester” claim element from among the different classes of possible additives (e.g., surfactants, thickening agents, etc.) disclosed in *Birtwistle*. The anticipation rejection should be withdrawn for this reason alone.

In addition to this first specific selection of additive from the disclosure of *Birtwistle*, the skilled artisan would also be required to choose an amount of additive in an attempt to arrive at the presently claimed range of from 1.2 to 8% by weight. *Birtwistle*, however, does not teach the presently claimed range of from 1.2 to 8% by weight of “at least one water-insoluble carboxylic acid.” In relevant part, *Birtwistle* recites that “[t]he cosmetically acceptable vehicle [emollient], **when** present will usually form from 0.01 to 99%, **preferably** from 50 to 98% by weight of the compositions, and can, in the absence of other cosmetic adjuncts, **form the balance of the composition.**” *Birtwistle* at col. 11, lines 44-48 (emphasis added). Whereas a species will anticipate a claim to the genus, “[a] genus does not always anticipate a claim to a species within the genus.” M.P.E.P. § 2131.02. For a disclosed genus to anticipate a claimed species that falls within that genus, anticipation can only be found if one of ordinary skill is able to “at once envisage” that species. *Id.* In this case, the genus of *Birtwistle* does not anticipate the presently claimed range of 1.2 to 8% by weight for at least the reason that the disclosed range of emollients of 0.01 to 99.9% is not sufficiently limited or delineated. Very few amounts of emollient are thus excluded from *Birtwistle*’s broad

disclosure. In addition, the preferred range of 50-98% of *Birtwistle* does not even encompass the presently claimed range. Thus, the specific guidance provided by *Birtwistle* is directed to amounts well outside the scope of the range recited in independent claims 24, 49, and 74.

In re Petering suggests that one may look to the specific embodiments to determine what types of species the broad genus may anticipate. However that case cannot be applied here because none of the examples of *Birtwistle* discloses a cosmetic composition that falls within the presently claimed range. The Examiner asserts that example 9 of *Birtwistle* falls within the scope of the present claims stating, "Birtwistle et al. teach, in example 9, a body shampoo for use in the shower or when bathing comprising triethanolammonium mono-(ethyleneglycol-mono-n-decyl ether) phosphate (an anionic surfactant, 10% by weight), triethanolammonium di-(ethyleneglycol-mono-n-octadecenyl ether) phosphate (an anionic surfactant, 8% by weight), cocoamphodipropionate (an amphoteric surfactant, 9% by weight), **ethylene glycol monostearate** (a non-ionic surfactant and water-insoluble ester, 1.5% by weight) and water." Final Office Action at 5 (emphasis added).

Appellants point out, however, that the present claims were previously amended in Applicants Amendment under 37 C.F.R. § 1.111 dated May 18, 2006, and subsequently entered by the Examiner. Final Office Action at 2. As amended, ethylene glycol monostearate does not fall within the claim scope as a possible water-insoluble carboxylic acid. Accordingly, *Birtwistle* does not disclose any specific examples that recited each and every claim limitation. Instead, the Examiner, as stated on pages 3 and 4 of the Final Office Action, is attempting to find anticipation by combining

Example 9 with other discrete disclosures of *Birtwistle*. The Examiner's reliance on Example 9, and subsequently picking and choosing among the disclosure of *Birtwistle* is precisely the picking and choosing forbidden by *Arkley*. Consequently, the Examiner failed to establish a prima facie case of anticipation.

The Examiner alleges "that the applicants herein support the anticipation rejection as made by the examiner by both admitting that *Birtwistle* teaches a range encompassing the applicant'[s] said range and further that the *Birtwistle* compounds have been exemplified with the said ranges of the application's claims." Final Office Action at 3. As argued above and previously on the record, Appellants vehemently disagree with the Examiner's statement with respect to the Appellants' alleged support of the rejection. Appellants made no such admission to the propriety of the 102(b) rejection. Instead, Appellants stated that "while Applicants acknowledge that *Birtwistle* discloses that various emollients may be added to composition in an amount ranging from 0.01-99% by weight, such a disclosure **does not teach** the use of 1.2-8% of these emollients as recited in the present independent claims." May 18, 2006, Response at 20 (emphasis added). That statement is entirely consistent with Appellants' arguments herein that *Birtwistle* does not anticipate the present claims.

As the Appellants have shown herein, *Birtwistle* does not teach each and every element recited in independent claims 24, 49, and 74, and their associated dependent claims. Withdrawal of this rejection is respectfully requested.

B. Claim 75 is Not Anticipated by *Birtwistle*

Claim 75 is not anticipated for all of the reasons presented above, and for the additional reason that *Birtwistle* does not teach or suggest a process for washing and conditioning a keratinous substance comprising:

applying to a wetted said substance an effective amount of the composition comprising (A) a cosmetically acceptable aqueous medium, (B) a washing base comprising at least one anionic surfactant and at least one amphoteric surfactant, (C) at least one water-insoluble carboxylic acid ester as recited in the claim,

optionally leaving said composition in said keratinous substances for a chosen time, and

rinsing with water. See claim 75.

Birtwistle does not anticipate claim 75 for the additional reason that *Birtwistle* fails to disclose “applying to a **wetted** said substance” and “optionally **leaving** said composition **in** said keratinous substances for a chosen time.” Claim 75 (emphasis added). Specifically, *Birtwistle* teaches that its compositions can be “either rubbed between the hands, **together with** water to form a foam, which is then used for washing, or applied via flannel or sponge to the area to be cleansed, or the foam is generated directly on that area. The foam is subsequently rinsed away with clean water.” Col. 12, lines 15-21 (emphasis added). *Birtwistle* reiterates that method: “a convenient amount ... being placed in the palm of the hand prior to distributing over the body surface with **added** water to create a lather with superior volume and creaminess.” Col. 14, lines 46-49. These passages do not disclose wetting the keratinous surface or any surface, for that matter, **before** applying the cosmetic composition. Instead

Birtwistle teaches adding water to the disclosed composition. Similarly, *Birtwistle* is wholly silent with respect to leaving the cosmetic composition on the surface being cleaned. Because these two claim limitations, in addition to those already discussed, are not met, *Birtwistle* does not anticipate claim 75.

Conclusion

In view of the foregoing, Appellants respectfully request that the outstanding §102(b) rejection of claims 24, 34-37, 49, 51, 74 and 75 be reversed and withdrawn.

VIII. Claims Appendix

Claims 1-23 (canceled).

24. (Previously presented) A detergent and conditioning cosmetic composition comprising (A) a cosmetically acceptable aqueous medium, (B) a washing base comprising at least one anionic surfactant and at least one amphoteric surfactant, (C) at least one water-insoluble carboxylic acid ester chosen from

1)- monoesters derived from reacting saturated and unsaturated, linear and branched monocarboxylic acids with saturated and unsaturated, linear and branched monoalcohols,

2)- di- and triesters derived from reacting saturated and unsaturated, linear and branched di- and tricarboxylic acids with saturated and unsaturated, linear and branched monoalcohols,

3)- mono-, di- and triesters derived from reacting saturated and unsaturated, linear and branched di- and tricarboxylic acids with saturated and unsaturated, linear and branched dialcohols,

4)- monoesters derived from reacting saturated and unsaturated, linear and branched monocarboxylic acids with saturated and unsaturated, linear and branched C₃-C₄₉ dialcohols,

5)- di- and triesters derived from reacting saturated and unsaturated, linear and branched monocarboxylic acids with unsaturated dialcohols,

6)- di- and triesters derived from reacting saturated and unsaturated, linear and branched monocarboxylic acids with saturated dialcohols having more than 4 carbon atoms,

7)- mono- and diesters derived from reacting saturated and unsaturated, linear and branched monocarboxylic acids with saturated trialcohols,

8)- triesters derived from reacting saturated and unsaturated, linear and branched monocarboxylic acids with saturated trialcohols having more than 3 carbon atoms,

9)- mono-, di- and triesters derived from reacting saturated and unsaturated, linear and branched di- and tricarboxylic acids with saturated and unsaturated, linear and branched trialcohols,

the total number of carbon atoms of said ester not exceeding 27 if said ester is saturated and not exceeding 50 if said ester comprises at least one unsaturation,

the concentration of said ester in said composition ranging from 1.2 to 8% by weight with respect to the total weight of the composition,

the concentration of said washing base in said composition ranging from 6 to 35% by weight with respect to the total weight of the composition,

the composition being devoid of cationic surfactant, and

the anionic surfactant:amphoteric surfactant ratio by weight being less than or equal to 3:1.

25. (Canceled)

26. (Canceled)

27. (Withdrawn) The composition of claim 24 wherein said washing base is present at a content by weight ranging from 8% to 25% by weight with respect to the total weight of the composition.

28. (Withdrawn) The composition of claim 24 wherein said at least one anionic surfactant is present in concentrations ranging from 3 to 30% by weight with respect to the total weight of the composition.

29. (Withdrawn) The composition of claim 24 wherein said at least one anionic surfactant is present in concentrations ranging from 5 to 20% by weight with respect to the total weight of the composition.

30. (Withdrawn) The composition of claim 24 wherein said at least one amphoteric surfactant is present in concentrations ranging from 1 to 20% by weight with respect to the total weight of the composition.

31. (Withdrawn) The composition of claim 24 wherein said at least one amphoteric surfactant is present in concentrations ranging from 1.5 to 15% by weight with respect to the total weight of the composition.

32. (Withdrawn) The composition of claim 24 wherein said anionic surfactant::amphoteric surfactant ratio by weight ranges from 0.2:1 to 3:1.

33. (Withdrawn) The composition of claim 24 wherein said anionic surfactant::amphoteric surfactant ratio by weight ranges from 0.4:1 to 2.5:1.

34. (Previously presented) The composition of claim 24 wherein at least one water-insoluble carboxylic acid ester is chosen from:

1)- monoesters derived from reacting saturated and unsaturated, linear and branched C₁-C₄₉ monocarboxylic acids with saturated and unsaturated, linear and branched C₁-C₄₉ monoalcohols,

2)- di- and triesters derived from reacting saturated and unsaturated, linear and branched C₂-C₄₈ di- and tricarboxylic acids with saturated and unsaturated, linear and branched C₁-C₄₉ monoalcohols,

3)- mono-, di- and triesters derived from reacting saturated and unsaturated, linear and branched C₂-C₄₉ di- and tricarboxylic acids with saturated and unsaturated, linear and branched C₁-C₄₉ dialcohols,

4)- monoesters derived from reacting saturated and unsaturated, linear and branched C₁-C₄₈ monocarboxylic acids with saturated and unsaturated, linear and branched C₃-C₄₉ dialcohols,

5)- di- and triesters derived from reacting saturated and unsaturated, linear and branched C₁-C₄₆ monocarboxylic acids with unsaturated C₂-C₄₈ dialcohols,

6)- di- and triesters derived from reacting saturated and unsaturated, linear and branched C₁-C₄₆ monocarboxylic acids with saturated dialcohols having more than 4 carbon atoms,

7)- mono- and diesters derived from reacting saturated and unsaturated, linear and branched C₁-C₄₇ monocarboxylic acids with saturated C₃-C₄₉ trialcohols,

8)- triesters derived from reacting saturated and unsaturated, linear and branched C₁-C₄₆ monocarboxylic acids with saturated trialcohols having more than 3 carbon atoms,

9)- mono-, di- and triesters derived from reacting saturated and unsaturated, linear and branched C₂-C₄₇ di- and tricarboxylic acids with saturated and unsaturated, linear and branched C₃-C₄₈ trialcohols.

35. (Previously Presented) The composition of claim 34 wherein at least one of said esters is chosen from the compounds from classes 1), 2), 4), 7) and 10).

36. (Previously presented) The composition of claim 34 wherein said monocarboxylic acid of classes 1), 4), 5), 6), 7), and 8) is chosen from saturated and unsaturated, linear and branched C₃-C₃₀ monocarboxylic acids.

37. (Previously Presented) The composition of claim 34 wherein said monoalcohols of classes 1) and 2) are chosen from saturated and unsaturated, linear and branched C₂-C₃₀ monoalcohols.

38. (Withdrawn) The composition of claim 34 wherein said di- and tricarboxylic acids of classes 2), 3) and 10) are chosen from saturated and unsaturated, linear and branched C₃-C₃₀ di- and tricarboxylic acids.

39. (Withdrawn) The composition of claim 34 wherein said dialcohols of class 3) are chosen from saturated and unsaturated, linear and branched C₂-C₃₀ dialcohols.

40. (Withdrawn) The composition of claim 34 wherein said dialcohols of class 4) are chosen from saturated and unsaturated, linear and branched C₃-C₃₀ dialcohols.

41. (Withdrawn) The composition of claim 34 wherein said unsaturated dialcohols of class 5) are chosen from unsaturated C₄-C₃₀ dialcohols.

42. (Withdrawn) The composition of claim 34 wherein said saturated dialcohols of class 5) are chosen from saturated C₅-C₄₈ dialcohols.

43. (Withdrawn) The composition of claim 34 wherein said saturated dialcohols of class 5) are chosen from saturated C₅-C₃₀ dialcohols.

44. (Withdrawn) The composition of claim 34 wherein said saturated trialcohols of class 7) are chosen from saturated C₃-C₃₀ trialcohols.

45. (Withdrawn) The composition of claim 34 wherein said saturated trialcohols of class 8) are chosen from saturated C₄-C₄₇ trialcohols.

46. (Withdrawn) The composition of claim 34 wherein said saturated trialcohols of class 8) are chosen from saturated C₄-C₃₀ trialcohols.

47. (Withdrawn) The composition of claim 34 wherein said unsaturated trialcohols of class 9) are chosen from unsaturated C₃-C₃₀ trialcohols.

48. (Withdrawn) The composition of claim 34 wherein said saturated and unsaturated, linear and branched trialcohols of class 10) are chosen from saturated and unsaturated, linear and branched C₃-C₃₀ trialcohols.

49. (Previously presented) A detergent and conditioning cosmetic composition comprising (A) a cosmetically acceptable aqueous medium, (B) a washing base comprising at least one anionic surfactant and at least one amphoteric surfactant, (C) at least one water-insoluble carboxylic acid ester chosen from:

cetyl lactate, C₁₂-C₁₅ alkyl lactate, isostearyl lactate, lauryl lactate, linoleyl lactate, oleyl lactate, (iso)stearyl octanoate, isocetyl octanoate, octyl octanoate, cetyl octanoate, isodecyl octanoate, isononyl isononanoate, octyl isononanoate, 2-ethylhexyl isononate, octyl palmitate, octyl pelargonate, octyl stearate, octyldodecyl erucate, oleyl erucate, ethyl and isopropyl palmitates, 2-ethylhexyl palmitate, isopropyl myristate, butyl myristate, hexyl stearate, butyl stearate, isobutyl stearate, hexyl laurate and tridecyl erucate,

diethyl sebacate, diisopropyl sebacate, diisopropyl adipate, di(n-propyl) adipate, dioctyl adipate, dioctyl maleate, triisopropyl citrate, trioleyl citrate and dioctyl malate, propylene glycol monostearate, tripropylene glycol monostearate, diethylene glycol monostearate and diethylene glycol monooleate,

glyceryl undecylenate, glyceryl monolaurate, glyceryl dilaurate, glyceryl monocaprate, glyceryl monocaprylate, glyceryl monooleate and glyceryl dioleate, glyceryl citrate and glyceryl monosuccinate,

the concentration of said ester in said composition ranging from 1.2 to 8% by weight with respect to the total weight of the composition, and

the concentration of said washing base in said composition ranging from 6 to 35% by weight with respect to the total weight of the composition.

50. (Canceled)

51. (Currently Amended) The composition of claim ~~[[50]]~~49, wherein said at least one ester is present in concentrations ranging from 1.5 to 8% by weight with respect to the total weight of the composition.

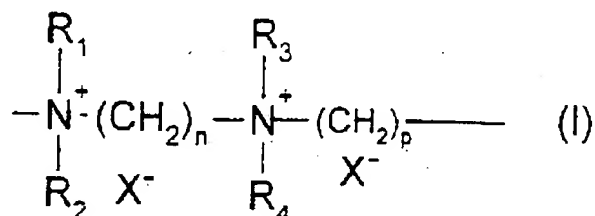
52. (Withdrawn) The composition of claim 50 wherein said at least one ester is present in concentrations ranging from 2 to 8% by weight with respect to the total weight of the composition.

53. (Withdrawn) The composition of claim 24 wherein said composition additionally comprises at least one cationic polymer.

54. (Withdrawn) The composition of claim 53 wherein said at least one cationic polymer is chosen from quaternary derivatives of cellulose ether, diallyldimethylammonium salt homopolymers and copolymers of

diallyldimethylammonium salt and of at least one monomer chosen from acrylamide, cationic polysaccharides, quaternary copolymers of vinylpyrrolidone and vinylimidazole salt.

55. (Withdrawn) The composition as claimed in claim 53 wherein said cationic polymer is chosen from polymers, comprising repeat units corresponding to the formula:



in which R₁, R₂, R₃ and R₄ are identical and different and denote a radical chosen from alkyl and hydroxyalkyl radicals having from 1 to 4 carbon atoms, n and p are integers ranging from 2 to 20, and X⁻ is an anion derived from an acid.

56. (Withdrawn) The composition of claim 53 wherein said at least one cationic polymer ranges from 0.005% to 10% by weight of the total weight of the composition.

57. (Withdrawn) The composition of claim 53 wherein said at least one cationic polymer ranges from 0.1% to 5% by weight of the total weight of the composition.

58. (Withdrawn) The composition of claim 53 wherein said at least one cationic polymer ranges from 0.25% to 3% by weight of the total weight of the composition.

59. (Withdrawn) The composition of claim 24 wherein said composition additionally comprises at least one water-soluble salt.

60. (Withdrawn) The composition of claim 59 wherein said at least one water-soluble salt is chosen from salts derived from reacting metals chosen from monovalent metals and divalent metals with an acid.

61. (Withdrawn) The composition of claim 60 wherein said at least one water-soluble salt is chosen from sodium chloride, potassium chloride, calcium chloride, magnesium sulfate, sodium citrate, and the sodium salts of phosphoric acid.

62. (Withdrawn) The composition of claim 60, wherein said at least one water-soluble salt is present at concentrations ranging from 0.1 to 10% by weight with respect to the total weight of the composition.

63. (Withdrawn) The composition of claim 60, wherein said at least one water-soluble salt is present at concentrations ranging from 0.5 to 5% by weight with respect to the total weight of the composition.

64. (Withdrawn) The composition of claim 24 wherein said composition additionally comprises at least one water-soluble alcohol.

65. (Withdrawn) The composition of claim 64 wherein said at least one water-soluble alcohol is chosen from C₁-C₆ alcohols.

66. (Withdrawn) The composition of claim 64 wherein said at least one water-soluble alcohol is chosen from ethanol, isopropanol, tert-butanol and n-butanol.

67. (Withdrawn) The composition of claim 64 wherein said at least one water-soluble alcohol is chosen from polyols.

68. (Withdrawn) The composition of claim 64 wherein said at least one water-soluble alcohol is chosen from alkylene glycols.

69. (Withdrawn) The composition of claim 64 wherein said at least one water-soluble alcohol is chosen from propylene glycol, propylene glycerol, polyalkylene glycols, and glycol ethers.

70. (Withdrawn) The composition of claim 64 wherein said at least one water-soluble alcohol is present in concentrations ranging from 0.1 to 20% by weight respect to the total weight of the composition.

71. (Withdrawn) The composition of claim 64 wherein said at least one water-soluble alcohol is present in concentrations ranging from 0.2 to 10% by weight respect to the total weight of the composition.

72. (Withdrawn) The composition of claim 24 wherein said composition additionally comprises at least one adjuvant chosen from cationic surface-active agents, anionic, nonionic and amphoteric polymers, proteins, protein hydrolysates, ceramides, pseudoceramides, fatty acids comprising linear or branched C₁₆-C₄₀ chains, hydroxy acids, vitamins, panthenol, volatile and nonvolatile silicones, UV screening agents, moisturizing agents, antidandruff agents, antiseborrheic agents, agents for combating free radicals, and opacifying agents.

73. (Withdrawn) The composition of claim 72 wherein said fatty acid comprising linear or branched C₁₆-C₄₀ chains is 18-methyl-eicosanoic acid.

74. (Previously presented) A method for cleaning and/or removing makeup from a keratinous substance comprising applying to said keratinous substance an effective amount of a composition comprising (A) a cosmetically acceptable aqueous medium, (B) a washing base comprising at least one anionic surfactant and at least one

amphoteric surfactant, (C) at least one water-insoluble carboxylic acid ester chosen from

1)- monoesters derived from reacting saturated and unsaturated, linear and branched monocarboxylic acids with saturated and unsaturated, linear and branched monoalcohols,

2)- di- and triesters derived from reacting saturated and unsaturated, linear and branched di- and tricarboxylic acids with saturated and unsaturated, linear and branched monoalcohols,

3)- mono-, di- and triesters derived from reacting saturated and unsaturated, linear and branched di- and tricarboxylic acids with saturated and unsaturated, linear and branched dialcohols,

4)- monoesters derived from reacting saturated and unsaturated, linear and branched monocarboxylic acids with saturated and unsaturated, linear and branched C₃-C₄₉ dialcohols,

5)- di- and triesters derived from reacting saturated and unsaturated, linear and branched monocarboxylic acids with unsaturated dialcohols,

6)- di- and triesters derived from reacting saturated and unsaturated, linear and branched monocarboxylic acids with saturated dialcohols having more than 4 carbon atoms,

7)- mono- and diesters derived from reacting saturated and unsaturated, linear and branched monocarboxylic acids with saturated trialcohols,

8)- triesters derived from reacting saturated and unsaturated, linear and branched monocarboxylic acids with saturated trialcohols having more than 3 carbon atoms,

9)- mono-, di- and triesters derived from reacting saturated and unsaturated, linear and branched di- and tricarboxylic acids with saturated and unsaturated, linear and branched trialcohols,

the total number of carbon atoms of said ester not exceeding 27 if said ester is saturated and not exceeding 50 if said ester comprises at least one unsaturation,

the concentration of said ester in said composition ranging from 1.2 to 8% by weight with respect to the total weight of the composition,

the concentration of said washing base in said composition ranging from 6 to 35% by weight with respect to the total weight of the composition,

the composition being devoid of cationic surfactant, and

the anionic surfactant:amphoteric surfactant ratio by weight being less than or equal to 3:1.

75. (Previously presented) A process for washing and for conditioning a keratinous substance comprising:

applying to a wetted said substance an effective amount of the composition comprising (A) a cosmetically acceptable aqueous medium, (B) a washing base comprising at least one anionic surfactant and at least one amphoteric surfactant, (C) at least one water-insoluble carboxylic acid ester chosen from

1)- monoesters derived from reacting saturated and unsaturated, linear and branched monocarboxylic acids with saturated and unsaturated, linear and branched monoalcohols,

2)- di- and triesters derived from reacting saturated and unsaturated, linear and branched di- and tricarboxylic acids with saturated and unsaturated, linear and branched monoalcohols,

3)- mono-, di- and triesters derived from reacting saturated and unsaturated, linear and branched di- and tricarboxylic acids with saturated and unsaturated, linear and branched dialcohols,

4)- monoesters derived from reacting saturated and unsaturated, linear and branched monocarboxylic acids with saturated and unsaturated, linear and branched C₃-C₄₉ dialcohols,

5)- di- and triesters derived from reacting saturated and unsaturated, linear and branched monocarboxylic acids with unsaturated dialcohols,

6)- di- and triesters derived from reacting saturated and unsaturated, linear and branched monocarboxylic acids with saturated dialcohols having more than 4 carbon atoms,

7)- mono- and diesters derived from reacting saturated and unsaturated, linear and branched monocarboxylic acids with saturated trialcohols,

8)- triesters derived from reacting saturated and unsaturated, linear and branched monocarboxylic acids with saturated trialcohols having more than 3 carbon atoms,

9)- mono-, di- and triesters derived from reacting saturated and unsaturated, linear and branched di- and tricarboxylic acids with saturated and unsaturated, linear and branched trialcohols,

the total number of carbon atoms of said ester not exceeding 27 if said ester is saturated and not exceeding 50 if said ester comprises at least one unsaturation,

the concentration of said ester in said composition ranging from 1.2 to 8% by weight with respect to the total weight of the composition,

the concentration of said washing base in said composition ranging from 6 to 35% by weight with respect to the total weight of the composition,

the composition being devoid of cationic surfactant, and

the anionic surfactant:amphoteric surfactant ratio by weight being less than or equal to 3:1,

optionally leaving said composition in said keratinous substances for a chosen time, and

rinsing with water.

76. (Withdrawn) A process according to claim 75 wherein said keratinous substance is hair.

IX. Evidence Appendix

None.

X. Related Proceedings Appendix

None.

Please grant any extensions of time required to enter this Brief and charge any additional required fees to our Deposit Account No. 06-0916.

Respectfully submitted,

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Dated: September 18, 2007

By: 

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